

December 1, 1997

To: Governor Gary Locke

From: Subcabinet on Management Improvement and Results

Subject: **REGULATORY IMPROVEMENT PROGRESS REPORT**

This memorandum is a progress report on the implementation and results of Executive Order 97-02, relating to regulatory improvement. The report is required by the executive order and is based on information submitted by agencies to the Office of the Governor.

Overall, state agencies are making excellent progress in the area of regulatory improvement. Progress reports indicate that agencies are focusing on issues of greatest need; actively seeking stakeholder involvement in the rule review process; using plain language and organizing rules so they may be easily understood; and are reviewing, modifying, and repealing rules consistent with the requirements of the executive order.

RULE REPEALS AND AMENDMENTS

All cabinet agencies developed and submitted plans for the review of their rules. Following submission of the rule review plans, agencies began the rule review process to determine if their rules should be retained, amended, or repealed. Agencies are repealing numerous outdated and unnecessary rules as a result of the review process and amending many others. The following is an overview of the total number of sections repealed and amended throughout state government since EO 97-02 took effect on March 25, 1997. In some cases, these rule actions are still in process.

- All state agencies repealed 1,935 sections of rules from the *Washington Administrative Code* (WAC). This represents about 591 pages of outdated, unnecessary, or conflicting regulations. 800 sections of WAC were amended.
- Cabinet agencies repealed 1,697 sections of WAC, which equals about 532 pages. They amended 489 sections.
- Non-cabinet agencies, including most notably the Insurance Commissioner, Higher Education Coordinating Board, University of Washington, and State Board of Health, repealed 238 sections

of WAC. Non-cabinet agencies eliminated approximately 59 pages of rules from the WAC. These agencies amended 311 sections.

The following summarizes specific agency accomplishments in eliminating and modifying outdated, unnecessary, or conflicting regulations:

- **Department of Agriculture** repealed 179 sections, totaling approximately 46 pages of WAC.
- **Department of Ecology** completed its rule review plan, building on the agency's earlier rule review efforts and established stakeholder involvement procedures for rule development. The Department repealed 76 sections, eliminating 36 pages from the WAC
- **Employment Security Department** identified 20 rules that will be amended and 22 rules that will be repealed.
- **Department of Health** reviewed 70 rules (totaling 256 sections of the WAC). The review recommended amending 110 sections and repealing 146.
- **Department of Labor and Industries** reviewed 880 sections and repealed 514 that were outdated or antiquated rules. Another 138 sections were amended, 226 sections were added, and 211 sections were rewritten using clear writing standards. In all, an estimated 183 pages will be eliminated from the WAC.
- **Department of Revenue** reviewed 96 out of 561 rules, repealed 11 of them, and filed for expedited repeal of two more. The Department also reviewed 46 interpretive documents, and recommended that 43 of them be repealed, some after incorporation into existing rules.
- **Department of Social and Health Services** filed over 275 outdated, duplicative, or unnecessary rules for repeal (out of its approximate total of 2,500 rules existing as of March 25, 1997). These repeals represent approximately 64 pages of the WAC. In addition, DSHS has inventoried and scheduled for review all DSHS rules, policies, numbered memoranda, interpretive documents, bulletins, and similar materials.
- **Higher Education Coordinating Board** repealed 100 sections of WAC, totaling about 30 pages of rules.
- **Insurance Commissioner** eliminated 48 rule sections and is amending 241 sections.
- **Washington State Lottery** repealed 201 sections of WAC. They contain obsolete rules for games that have been closed and are no longer offered. These sections comprise 110 pages of the WAC and their repeal reduces the volume of Lottery rules by one-half.

ACCOMPLISHMENTS

State agencies responded well to the requirements of the executive order. Agency plans and progress reports reflect a fundamental understanding of the executive order. In all but a handful of agencies, the rule review process will be completed by the year 2000 and most agencies can implement the executive order without additional resources. Agencies were requested to provide tangible accomplishments based on the executive order. Significant accomplishments are highlighted below:

- **The Employment Security Department (ESD)** amended rules to allow new and reopened benefit claims to be filed by mail rather than in person. This has benefited claimants in rural areas, other claimants involved in mass layoffs, and those claiming benefits at high volume job service centers. For example, Island County residents will save time and money by avoiding the costs of traveling by car and ferry to the Job Service Center, just to file unemployment insurance claims in person.

ESD has joined with the **Department of Social and Health Services** to implement rule making activities for the WorkFirst program. Instead of two agencies having rules relating to the same program, only one agency (DSHS) will promulgate them. The rules will be contained in the same part of the WAC for ease of customer reference. Duplication between agencies will be avoided.

- **The Department of Health** is simplifying reporting requirements. DOH is working with local laboratories to develop an electronic system that enables labs to e-mail test results to the department -- saving both time and money. Also, as part of the effort to improve the contracting process with local health departments, DOH reviewed how it used the required information. As a result of this examination, DOH eliminated approximately half of the application requirements and the process of submitting "pre-applications." In addition, DOH eliminated one report that was not useful to the department and was time consuming for local health jurisdictions to complete.

DOH is also coordinating its regulatory improvement efforts plan with quality improvement activities. Of the three priority opportunities for quality improvement identified in the department's July 1997 Quality Improvement Plan (as required by Executive Order 97-03), two have special relevance to regulatory improvement:

- Regulation of health facilities and services: This is a major area of regulatory activity in which quality improvement and the criteria for rule review go hand in hand.
- Responding to customer suggestions and concerns: DOH uses customer surveys as a benchmark to develop a standard method for customer feedback. This survey/feedback process identifies opportunities for process improvements and rule revisions.

- **The Department of Labor and Industries (L&I)** eliminated unnecessary second inspections for factory-built commercial structures. Purchasers will save the cost of a second, unnecessary inspection and L&I staff will be freed up to do other safety work as a result of repealing one regulation. The Specialty Compliance Services Division eliminated the requirement that each factory-built commercial structure be inspected and issued a temporary insignia when it is put on a sales lot and then inspected again when the structure is placed in its permanent location. Instead, the structure will be inspected once, at the manufacturing facility. Factory-built commercial structure purchasers will save about \$5,000 per year. The change is expected to be effective in February 1998.

L&I fixed a problem with Right-to-Know fees. Employers who do not have hazardous chemicals at their workplaces are permitted an exemption from fees that the agency charges to fund worker and community right-to-know programs. The proposed changes will allow the exemption to take effect immediately upon approval by the agency. Currently, employers who are granted exemptions still must pay their current bill. The change is expected to be effective in February 1998.

L&I eliminated a state electrical rule based on recommendations from major utilities and labor leaders serving on the Electrical Utilities Safety Advisory Committee. The chapter restates the National Electrical Safety Code (NESC) specifications for clearances, dimensions, voltages, and other safety measures necessary to construct and maintain high voltage electrical facilities. Each time the NESC specifications changed, L&I had to change its state code. Rather than requiring electrical utilities to adhere to both state codes and national codes, L&I is proposing to adopt a provision requiring adherence to the NESC, eliminating a duplicate state rule.

L&I proposed more flexibility in meeting first aid requirements. In response to requests from the emergency health care community and major occupational safety and health stakeholders, L&I is proposing a comprehensive update of existing rules for work-related first aid requirements. Instead of specifying exactly what must be done, the rules will give employers greater flexibility to ensure that workers are protected. Employers will be required to prepare a written first aid response plan that addresses hazards, assesses needs, and provides appropriate availability of emergency medical treatment.

L&I will consolidate two different safety and health rules for abrasive blasting workers. The agency believes this will make the rules easier for people to read. Currently, the two standards sometimes duplicate, augment, and reference each other. This often results in confusion and a lack of understanding by employers and readers.

The WISHA Division of L&I improved the way it sends out public hearing notices and hearing results. A flyer with general information is mailed to interested parties. If someone wants the full package, they can obtain hard copy or disk. This change helps the agency avoid about \$10,000 in printing and mailing costs per rule change and provides earlier notification to customers.

The WISHA Division of L&I began using the expedited adoption and repeal processes for simple typographical and non-controversial revisions. Public hearings are not necessary in these processes if there are no objections to the change as posted in the Washington State Register. If a public hearing is not required, the department will avoid a cost of about \$1,000 per hearing. Since some topics require multiple hearings around the state, this cost avoidance becomes even more substantial. The two rules are: *Medical Tests for Inorganic Arsenic and Coke Oven Emissions (WAC 296-62)* and *Guarding of Masonry Saws and Cutoff Wheels (WAC 296-24)*.

- **The Department of Natural Resources (DNR)** amended a rule to allow new timber harvest systems that represent a low fire risk to operate on high fire danger days. The previous rule was confusing to the regulated community and department staff. The new rule brought clarity, consistency, and fairness to this regulatory area.

DNR also produced two booklets, "Forest Practices Illustrated" and "A SEPA Checklist Resource Guide," which clarify and simplify state regulatory requirements. The department no longer uses emergency rules routinely to establish start and end dates of the closed fire season, thus reducing uncertainty for the public.

- **The Department of Revenue (DOR)** identified a number of rules to be incorporated into existing rules. This is part of a Department strategy to make rules deal more fully with a subject, rather than requiring taxpayers to look at multiple rules on a single subject. For example, the rules governing sales of magazines and newspapers, will be incorporated into those that deal with tax issues for publishers of newspapers, magazines, and periodicals. By consolidating the two rules, more complete information will be provided to taxpayers, while the number of different documents taxpayers have to use will be reduced.

DOR is also working with ten taxpayers on a project for electronic filing of tax returns through the Internet. If successful, the next step will be a pilot project with an actual production system involving between 50 and 100 taxpayers.

- **The Department of Social and Health Services (DSHS)** reported that an unanticipated benefit of the "inventory" portion of the DSHS Review Plan was "sorting out" DSHS rules, policies, and similar issuances. For the first time, DSHS now has an action plan and database that lists which DSHS program is responsible for each regulatory item. In fact, when DSHS prepared the inventory, the department discovered numerous "orphans" - that is, rules and policies for which no program claimed responsibility. These orphans became part of DSHS' "first wave" of repeals and rescissions.

DSHS Health and Rehabilitative Services Administration (HRSA) will eliminate approximately 17 percent of its rules, or 89 rules out of 517. HRSA abolished or will shortly abolish more than 50 policies. By eliminating just one form, HRSA reduced local mental health providers' workload by almost 2,200 pages per year, saving between 200 and 400 hours that can be redirected to client services statewide.

DSHS Aging and Adult Services Administration reviewed 485 rules; amended 16 rules to clarify and streamline agency processes regarding nursing home Medicaid payment; rescinded all pre-May 1997 Management Bulletins; shrank a field manual; and rescinded 82 outdated advisory letters. It also developed an Intranet site linking headquarters and field offices to post rules and make available a downsized manual. This information will eventually become available on the DSHS Internet site.

DSHS Economic Services Administration eliminated two-thirds of the Quality Assurance Manual related to Temporary Assistance to Needy Families (from 288 pages to 92 pages) and 75 percent of a manual that includes support services policies, procedures, and forms.

DSHS Children's Administration (CA) identified obsolete, confusing, or poorly drafted rules on social services block grants, foster care, guardianship, and child day care licensing requirements. CA is using regulatory improvement quality principles in working with stakeholders to develop new rules for the Tribal/State Accord with respect to Indian Child Welfare.

- **The Higher Education Coordinating Board** reviewed its own procedures relating to institutional programs. The Board has consolidated and simplified its program planning, program approval, and program review into a single unified process. These changes eliminate four lengthy and, in some instances, duplicative reviews, procedures, and reports. The procedures will have a more realistic horizon for program planning and be more responsive to institutional and student needs for expansion or elimination of existing programs and approval of new programs.
- **The Office of Administrative Hearings** reviewed its Model Rules of Procedure (for all agencies to follow under the Administrative Procedure Act) for the first time since 1989. Also, for the first time, administrative law judges, who use the rules to conduct administrative hearings, were involved in the review.
- **The Office of the Attorney General** consolidated the mandatory resale and warranty disclosure documents into one form. This will simplify disclosure obligations, reduce motor vehicle manufacturer and motor vehicle dealer paperwork obligations, reduce both the Attorney General and Department of Licensing record retention requirements, and decrease the misrepresentations made to subsequent consumers of return vehicles.
- **The Office of Financial Management (OFM)** began a project to improve the process for reimbursing employees for travel and related expenses. This project is a collaborative effort with other state agencies. OFM will amend travel regulations so that they meet the criteria of effectiveness, clarity, and coordination defined in the executive order. When completed, the project will result in more timely, efficient, and easily understood procedures that employ improved automation support and technology solutions.

- **The Public Disclosure Commission** created a Rules Review Advisory Committee comprised of persons from business, labor, good-government groups, and a local governmental agency that administers a campaign finance ordinance. Advisory Committee members will evaluate existing rules for compliance with the Governor's review criteria and also advise the Commission regarding recommended changes.
- **The University of Washington** revised its parking and traffic rules to accommodate the public, breaking this chapter of the code into seven parts to better identify the topics covered. In order to accomplish this division of the code into clear, identifiable parts, 55 rule sections were repealed, one section was retained, four sections were amended, and 60 new sections were created. This complete revision of chapter 478–116 WAC was based on user input and required several departments working together to create this streamlined version of the code. This change became effective September 1997.
- **The State Parks and Recreation Commission** is using the Clean Vessel Funding Program as a pilot project for clear rule writing and to test the efficiency of delegating decision-making authority. Staff is rewriting the entire chapter to remove bureaucratic language and processes. The rewrite will focus staff time and public attention on program results rather than on the processes for application, selection, and contract compliance. The simplification of the Clean Vessel Program has motivated staff and stakeholders to review and rewrite other grant-in-aid programs using the same principles.

REPORTING REQUIREMENTS

The executive order requires that each state agency develop a plan for the review of its rules and submit the plan to the Governor no later than September 1, 1997. By October 15, 1997, each agency was to report to the Governor on the progress made toward completing its regulatory review and on other measures to improve its regulatory program.

- Sixty-four agencies submitted rule review plans, as required by the executive order. Of those agencies, 54 submitted progress reports.
- Thirteen mostly small, non-regulatory agencies received waivers to the reporting requirements or had reasonable explanations for not engaging in rule review.

We recognize that this early progress – less than seven months into the review process – represents the first steps toward streamlining and improving state regulations. It is estimated that major regulatory agencies have reviewed roughly 20 percent of their rules. Additional repeals of outdated, unnecessary, or conflicting regulations will be reported following this review period. It is also expected that numerous amendments to clarify and consolidate rules will be proposed in the next 12 months as agencies continue to work with stakeholders to meet the criteria of reasonableness, effectiveness, clarity, and fairness.

Results of Regulatory Review as of October 15, 1997

Executive Cabinet	Plan Submitted	Progress Report Submitted	WAC Sections Repealed	WAC Sections Amended	WAC Sections Reviewed	WAC Pages Eliminated
Department of Agriculture	Yes	Yes	179	n/a	n/a	46
Department of Corrections	Yes	Yes	0	0	0	0
Department of Ecology	Yes	Yes	76	13	n/a	36
Department of Employment Security	Yes	Yes	22	20	65	2
Department of Financial Institutions	Yes	Yes	13	0	17	4
Department of Fish and Wildlife	Yes	Yes	0	0	0	0
Dept. of General Administration	Yes	Yes	4	0	10	5
Department of Health	Yes	Yes	146	110	256	27
Department of Information Services	Yes	Yes	0	0	0	0
Department of Labor and Industries	Yes	Yes	514	138	880	183
Department of Licensing	Yes	Yes	29	75	145	6
Department of Personnel	Yes	Yes	1	7	26	1
Department of Retirement Systems	Yes	Yes	25	n/a	n/a	3
Department of Revenue	Yes	Yes	13	53	96	3
Department of Transportation	Yes	No	n/r	n/r	n/r	n/r
Department of Veterans' Affairs	Yes	Yes	0	0	13	0
Dept. of Comm.Trade, and Econ Dev.	Yes	Yes	54	5	n/a	5
Dept. of Social & Health Services	Yes	Yes	275	n/a	n/a	64
Health Care Authority	Yes	Yes	17	0	0	4
Liquor Control Board	Yes	No	n/r	n/r	n/r	n/r
Military Department	Yes	Yes	n/r	n/r	n/r	n/r
Office of Financial Management	Yes	Yes	12	0	66	2
State Parks & Recreation	Yes	Yes	36	13	0	7
Utilities & Transportation Comm.	Yes	Yes	27	2	0	6
Washington State Lottery	Yes	Yes	201	0	0	110
Washington State Patrol	Yes	Yes	36	14	76	12
TOTAL	n/a	n/a	1,680	450	1,650	526

Small Agency Cabinet	Plan Submitted	Progress Report Submitted	WAC Sections Repealed	WAC Sections Amended	WAC Sections Reviewed	WAC Pages Eliminated
Board of Accountancy	Yes	Yes	0	0	0	0
Board of Tax Appeals	Yes	No	n/r	n/r	n/r	n/r
Comm. on African-American Affairs	Waived	Waived	n/a	n/a	n/a	n/a
Commission on Asian-American Affairs	Waived	Waived	n/a	n/a	n/a	n/a
Commission on Hispanic Affairs	Waived	Waived	n/a	n/a	n/a	n/a
Department of Printing	No	Waived	n/a	n/a	n/a	n/a
Department of Services for the Blind	Yes	Yes	0	0	0	0
Environmental Hearings Office	Yes	Yes	0	6	0	0
Growth Management Hearings Office	Yes	Yes	5	23	94	1
Human Rights Commission	Yes	Yes	0	0	0	0
Indeterminate Sentence Review Board	Yes	Waived	n/a	n/a	n/a	n/a
Interagency Committee for Outdoor Rec.	Yes	Yes	2	10	0	2
Office of Administrative Hearings	Yes	Yes	0	0	27	0

Small Agency Cabinet (cont.)	Plan Submitted	Progress Report Submitted	WAC Sections Repealed	WAC Sections Amended	WAC Sections Reviewed	WAC Pages Eliminated
Office of Indian Affairs	Waived	Waived	n/a	n/a	n/a	n/a
Office of Minority & Women Business	Yes	No	n/r	n/r	n/r	n/r
Personnel Appeals Board	Yes	Yes	0	0	0	0
Pollution Liability Insurance Program	Yes	Yes	10	0	55	3
Public Disclosure Commission	Yes	Yes	0	0	0	0
Puget Sound Water Quality Action Team	No	Waived	n/a	n/a	n/a	n/a
State Conservation Commission	No	Yes	0	0	0	0
State School for the Blind	Yes	Yes	0	0	0	0
State School for the Deaf	Yes	Yes	0	0	0	0
Traffic Safety Commission	Yes	Waived	n/a	n/a	n/a	n/a
Washington State Arts Commission	Waived	Waived	n/a	n/a	n/a	n/a
Workforce Training & Ed Coord. Board	Yes	Yes	0	0	0	0
TOTAL	n/a	n/a	17	39	176	6

Non-Cabinet Agencies	Plan Submitted	Progress Report Submitted	WAC Sections Repealed	WAC Sections Amended	WAC Sections Reviewed	WAC Pages Eliminated
Attorney General	Yes	Yes	1	10	11	1
Board of Industrial Insurance Appeals	Yes	Yes	0	7	7	0
Central Washington University	Yes	No	n/r	n/r	n/r	n/r
Comm. & Technical College System	No	Yes	0	0	0	0
Comm. Economic Revitalization Board	Yes	No	n/r	n/r	n/r	n/r
County Road Administration Board	Yes	Yes	0	0	0	0
Criminal Justice Training Commission	Yes	Yes	0	0	0	0
Department of Natural Resources	Yes	Yes	n/a	n/a	n/a	n/a
Energy Facility Site Evaluation Board	Yes	Yes	0	13	0	0
Higher Education Coordinating Board	Yes	Yes	100	4	0	30
Office of the Insurance Commissioner	Yes	Yes	48	241	785	15
Public Employment Relations Comm.	Yes	Yes	0	0	0	0
Public Works Board	Yes	Yes	0	0	0	0
Sentencing Guidelines Commission	No	Yes	0	0	0	0
State Auditor	Yes	Waived	n/a	n/a	n/a	n/a
State Board of Education	Yes	Waived	n/a	n/a	n/a	n/a
State Board of Health	Yes	Yes	27	0	0	3
State Building Code Council	Yes	No	n/r	n/r	n/r	n/r
State Convention & Trade Center	Yes	Waived	n/a	n/a	n/a	n/a
State Investment Board	No	Yes	0	0	0	0
University of Washington	Yes	Yes	57	35	0	9
Washington State Historical Society	Yes	Waived	n/a	n/a	n/a	n/a
Washington State University	Yes	Yes	5	1	0	1
Western Washington University	Yes	No	n/r	n/r	n/r	n/r
TOTAL	n/a	n/a	238	311	803	59